

805

ILLEGAL DISCRIMINATION

49-2-101

- 49-2-507. Procedure upon failure to find discrimination.
 49-2-508. Enforcement of commission or department order or conciliation agreement.
 49-2-509. Conclusion of complaint — filing in district court.
 49-2-510. Procedures and remedies for enforcement of housing discrimination laws.

Part 6 — Penalties

- 49-2-601. Criminal penalty.
 49-2-602. Intimidation or interference in right to be free from housing discrimination — penalties.

*definition
of disability*

Part 1 General Provisions

49-2-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Aggrieved party" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, and who has been or is likely to be specially and injuriously affected by a violation of this chapter.

(3) "Commission" means the commission for human rights provided for in 2-15-1706.

(4) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

(5) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment. It includes without limitation the right to incur and defer debt that is secured by residential real property.

(6) "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit, or credit sale.

(7) "Creditor" means a person who, regularly or as a part of the person's business, arranges for the extension of credit for which the payment of a financial charge or interest is required, whether in connection with loans, sale of property or services, or otherwise.

(8) "Department" means the department of labor and industry provided for in 2-15-1701.

(9) "Educational institution" means a public or private institution and includes an academy; college; elementary or secondary school; extension course; kindergarten; nursery; school system; university; business, nursing, professional, secretarial, technical, or vocational school; or agent of an educational institution.

(10) "Employee" means an individual employed by an employer.

(11) "Employer" means an employer of one or more persons or an agent of the employer but does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide accommodations or services that are available on a nonmembership basis.

(12) "Employment agency" means a person undertaking to procure employees or opportunities to work.

(13) "Financial institution" means a commercial bank, trust company, savings bank, finance company, savings and loan association, credit union, investment company, or insurance company.

(14) "Housing accommodation" means a building or portion of a building, whether constructed or to be constructed, that is or will be used as the sleeping quarters of its occupants.

(15) "Labor organization" means an organization or an agent of an organization organized for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms or conditions of employment, or of other mutual aid and protection of employees.

(16) "National origin" means ancestry.

(17) (a) "Organization" means a corporation, association, or any other legal or commercial entity that engages in advocacy of, enforcement of, or compliance with legal interests affected by this chapter.

(OVER)

(b) The term does not include a labor organization.

(18) "Person" means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated employees' associations, employers, employment agencies, organizations, or labor organizations.



(19) (a) "Physical or mental disability" means:

(i) a physical or mental impairment that substantially limits one or more of a person's major life activities;

(ii) a record of such an impairment; or

(iii) a condition regarded as such an impairment.

(b) Discrimination based on, because of, on the basis of, or on the grounds of physical or mental disability includes the failure to make reasonable accommodations that are required by an otherwise qualified person who has a physical or mental disability. An accommodation that would require an undue hardship or that would endanger the health or safety of any person is not a reasonable accommodation.

(20) (a) "Public accommodation" means a place that caters or offers its services, goods, or facilities to the general public subject only to the conditions and limitations established by law and applicable to all persons. It includes without limitation a public inn, restaurant, eating house, hotel, roadhouse, place where food or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, nightclub, trailer park, resort, campground, barbering, cosmetology, electrology, esthetics, or manicuring salon or shop, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company, or hospital and all other public amusement and business establishments.

(b) Public accommodation does not include an institution, club, or place of accommodation that proves that it is by its nature distinctly private. An institution, club, or place of accommodation may not be considered by its nature distinctly private if it has more than 100 members, provides regular meal service, and regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages, directly or indirectly, from or on behalf of nonmembers, for the furtherance of trade or business. For the purposes of this subsection (20), any lodge of a recognized national fraternal organization is considered by its nature distinctly private.

History: En. 64-305 by Sec. 1, Ch. 283, L. 1974; amd. Sec. 1, Ch. 121, L. 1975; amd. Sec. 2, Ch. 524, L. 1975; amd. Sec. 1, Ch. 35, L. 1977; R.C.M. 1947, 64-305; amd. Sec. 2, Ch. 177, L. 1979; amd. Sec. 1, Ch. 543, L. 1989; amd. Sec. 1, Ch. 241, L. 1991; amd. Sec. 1, Ch. 235, L. 1993; amd. Sec. 2, Ch. 407, L. 1993; amd. Sec. 4, Ch. 467, L. 1997; amd. Sec. 21, Ch. 243, L. 2003.

49-2-102. Records to be kept. The state, employers, labor organizations, and employment agencies shall maintain records on age, sex, and race that are required to administer the civil rights laws and regulations. These records are confidential and available only to federal and state personnel legally charged with administering civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall be made available to the general public.

History: En. 64-306.1 by Sec. 4, Ch. 524, L. 1975; amd. Sec. 1, Ch. 27, L. 1977; R.C.M. 1947, 64-306.1(2).

Cross-References

Right to know, Art. II, sec. 9, Mont. Const.

Right of privacy, Art. II, sec. 10, Mont. Const.

Access to public records, 2-6-102, 2-6-104, 2-6-207, 2-6-307.

Part 2

Commission for Human Rights

Part Cross-References

Membership — allocation, 2-15-1706.

49-2-201. Repealed. Sec. 18, Ch. 467, L. 1997.

History: (1)En. 64-311 by Sec. 8, Ch. 283, L. 1974; amd. Sec. 9, Ch. 524, L. 1975; Sec. 64-311, R.C.M. 1947;(2)En. 64-308 by Sec. 5, Ch. 283, L. 1974; amd. Sec. 6, Ch. 524, L. 1975; Sec. 64-308, R.C.M. 1947; R.C.M. 1947, 64-308(part), 64-311.